

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LARRY JONES, JR., and DAMION JONES)
by his Mother and next friend,)
VERONICA JONES,)

Plaintiffs,)

V.)

CITY OF CHICAGO, a municipal corporation,
OFFICER JAMES SMITH, STAR # 20664,
OFFICER DARLENE WUJCIK, STAR # 1661,
DETECTIVE JOHN L. FOLINO, JR.,
STAR # 20143, OFFICER MARTIN PHILBIN,
STAR # 4211, OFFICER CARL HATTULA,
STAR # 20516, OFFICER T.K. FOLINO,
STAR # 8669, OFFICER J.L. FLORES,
STAR # 8080, OFFICER F.M. FAGIANO,
STAR # 45, DETECTIVE TIMOTHY B.
MCDERMOTT, STAR # 21084,
OFFICER J.E. ALVARADO, STAR # 12730,
OFFICER S.B. FORDE, STAR # 20203,
OFFICER S.M. FERGUS, STAR # 20809,
OFFICER V.H. KUBICA, STAR # 21066,
OFFICER S.P. DORSEY, STAR # 6126,
OFFICER VAIL, OFFICER SMITH, and
Unknown Chicago Police Officers,

Defendants.)

NO. 08 C 413

HON. GEORGE W. LINDBERG
Judge Presiding

MAGISTRATE JUDGE ASHMAN

INDIVIDUAL DEFENDANTS' SUPPLEMENTAL AGREED MOTION
FOR ENLARGEMENT OF TIME TO ANSWER OR OTHERWISE PLEAD

Defendants JAMES SMITH, DARLENE WUJCIK, JOHN FOLINO, JR., MARTIN PHILBIN, TONY FOLINO, FRANK FAGIANO, TIMOTHY MCDERMOTT, JOSUA ALVARADO, SEAN FORDE, SHEAMUS FERGUS, VICTOR KUBICA, JOSE FLORES, CARL HATTULA, MARK VAIL and SEAN DORSEY (collectively referred to as

“Defendants”)¹, by one of their attorneys, Jonathan Clark Green, Senior Corporation Counsel of the City of Chicago, (defendants collectively referred to as “Defendants”), respectfully requests this Honorable Court, pursuant to FRCP 6(b)(1), to enlarge their respective times to answer or otherwise plead to Plaintiff’s Complaint in this matter for an additional thirty (30) days from today, April 9, 2008, up to and including May 9, 2008.

In support of this motion, the undersigned state as follows:

1. I, the undersigned Jonathan Clark Green, am one of the Assistant Corporation Counsel of the City of Chicago assigned to represent the served individual Defendants in this matter.

2. This matter was recently removed from the Circuit Court of Cook County, Illinois, to the United States District Court for the Northern District of Illinois, and federal summonses were issued for the sixteen named individual defendants.

3. Fifteen of the sixteen individual named defendants in this matter have been so far personally served, including the latest officer over the last few days.

4. Due to scheduling conflicts and time constraints, counsel for the individual Defendants have not yet been able to meet with all fifteen of these individual Defendants to review and answer Plaintiff’s Complaint. The last of the served officers just had open heart surgery over the last week, and is now recovering. Plaintiff’s counsel is also still working with counsel for the City in identifying the sixteenth individual defendant. In addition, much paperwork is still in process of being ordered and collected. (It should be noted that the underlying claim involves a rather extensive homicide investigation and will likely involve a large amount of materials.)

¹ Individual Defendants, those Police Officers having been served in this matter, file this Motion solely on their own behalf, and not on behalf of any other named or unnamed defendants.

5. Another matter that has come up in this case is the fact that there is a companion virtually identical case involving the co-arrestee in this matter, Andre Wilson. That case has also just been removed from state court and has been assigned to Judge Zagel as Wilson v. City of Chicago, et al., 08 C 1702. We are in the process of identifying Plaintiff's counsel in that case to discuss possible consolidation to prevent duplicative work by all parties and the Court in these matters. Apparently, the Plaintiff's counsel on record, Mr. Blumenfeld, has just had a heart attack and his office is in contact with us to see how the case will be handled at this point. Also, another attorney who previously filed an appearance in the Wilson state case may be filing an additional appearance in Wilson's federal case. The defendants in both matters are essentially identical.

6. Hence, for the convenience of all parties and the Court, Defendants will therefore need thirty (30) additional days from today to answer or otherwise plead in this matter, up to and including May 9, 2008.

7. Responding to Plaintiff's Complaint simultaneously on behalf of all Defendants will promote judicial economy by allowing the Court to set uniform briefing schedules.

8. Plaintiff has not been prejudiced by the delay in responding to his complaint since the time the respective services of process were had, and will not be prejudiced by the granting of this motion.

9. Plaintiff's counsel, by telephone today, have stated that, under the rather unusual circumstances, they have no objection to this motion, and that we may proceed to file this motion as an agreed motion. Counsel for both Plaintiff and the Defendants are also cooperating in ongoing identification and monitoring of the facilitation of service of process on the sixteen

alleged individual named defendant through the Office of Legal Affairs of the Chicago Police Department.

10. This motion is the Defendants' second request for an enlargement of time to answer or otherwise plead in this matter for Plaintiff's Complaint, is filed in good faith, and is not intended for the purpose of undue delay.

WHEREFORE, the Defendants respectfully move this Honorable Court to enlarge their respective times to answer or otherwise plead in this matter approximately thirty (30) additional from today, April 9, 2008, up to and including May 9, 2008.

Respectfully submitted,

JAMES SMITH, DARLENE WUJCIK,
JOHN FOLINO, JR., MARTIN PHILBIN,
TONY FOLINO, FRANK FAGIANO,
TIMOTHY MCDERMOTT, JOSUA
ALVARADO, SEAN FORDE, SHEAMUS
FERGUS, VICTOR KUBICA, JOSE
FLORES, CARL HATTULA, MARK VAIL
and SEAN DORSEY,

By one of their attorneys,

/s/ Jonathan Clark Green

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